

REQUESTED CHARGE IN RESPONSE TO JURORS' NOTE, US v. Basciano 05cr60:

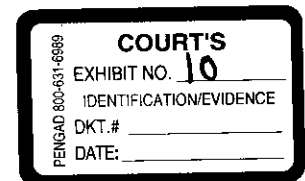
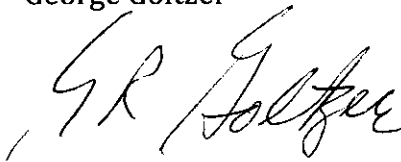
A conspiracy may end in a number of ways. It may end when the agreement to commit a crime is abandoned so that there are no longer two persons who are part of the agreement.

A conspiracy may end either when its purpose is accomplished or frustrated.

In order to decide the question of whether a person is responsible for the acts of co-conspirators, you must be convinced beyond a reasonable doubt that the person was a member at the time the crime was committed or the act was done. If the conspiracy ended and the defendant did not join a later conspiracy that was formed after the termination of the first one, you may not hold him responsible for co-conspirators' acts for the later conspiracy.

The question of how many, if any, conspiracies have been proven in this case is a question of fact for you, the jury, to resolve, the government bears the burden of proof beyond reasonable doubt that Basciano was a member of the conspiracy charged in the indictment and not some other conspiracy.

-George Goltzer



*Relevant and Authority*

A scheme or conspiracy may be definitively abandoned, though some of the participants subsequently reach another agreement to accomplish the same objective with others. Unless you find that there is an unbroken continuing nucleus of at least two participants, you may not find that a conspiracy once formed has continued to exist.

Van Riper v. United States, 13 F.2d 961 (2d Cir. 1926)

*Respectfully,*

*George Goltz*